

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JOHN HENRY CARTER,)
)
)
Plaintiff,) Civil Action No. 12-946
)
)
v.) Judge Cathy Bissoon
)
)
JUDGE THOMAS FLAHERTY,)
)
)
Defendant.))

MEMORANDUM AND ORDER

I. MEMORANDUM

For the reasons that follow, Defendant's Motion to Dismiss (Doc. 5) will be granted.

Defendant Thomas Flaherty, a sitting judge of the Court of Common Pleas of Allegheny County ("Judge Flaherty"), presided over a "Motion to Correct Sentence" filed by Plaintiff in state court, under Docket No. CP-02-CR-0013402-2000 (Allegh. Cty. Comm. Pl.). *See* Order of J. Flaherty dated Jun. 22, 2012 (attached to Compl., under Doc. 2-1). Judge Flaherty subsequently denied Plaintiff's related "Petition for [a] New Order" (*see* Doc. 2-2), and Plaintiff has brought this lawsuit requesting that "the [N]ew [O]rder be granted." *See* Compl. at ¶ 1.

As Defendant correctly asserts, Plaintiff's action is barred by the *Rooker-Feldman* doctrine. *See* White v. Rabner, 2009 WL 2974882, *1 (3d Cir. Sept. 18, 2009) (holding same under analogous circumstances). Even were it not, Judge Flaherty enjoys judicial immunity from damages claims, and injunctive relief is unavailable because Plaintiff has neither alleged nor shown that Defendant violated a declaratory decree or that declaratory relief is unavailable. *Id.*; *accord* Abulkhair v. Rosenberg, 2012 WL 70649, *1 (3d Cir. Jan. 10, 2012) (holding same).

Although Plaintiff, in response to Defendant's Motion to Dismiss, has requested an opportunity to amend his Complaint, nothing in his response gives "[any] indication that repleading would correct the defects" identified above. *See King v. Baldino*, 2010 WL 5078008, *3 (3d Cir. Dec. 14, 2010) (citation to quoted source omitted). Accordingly, Defendant's Motion to Dismiss will be granted, with prejudice.

Consistent with the foregoing, the Court hereby enters the following:

II. ORDER

Defendant's Motion to Dismiss (**Doc. 5**) is **GRANTED**.

IT IS SO ORDERED.

September 4, 2012

s\Cathy Bissoon

Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All counsel of record

cc (via First-Class U.S. Mail):

John Henry Carter
809 Crucible Street
Pittsburgh, PA 15220